

Adopted

Rejected

MINORITY COMMITTEE REPORT

MR. SPEAKER:

*A minority of your Committee on Public Policy, which met on February 18, 2008, to consider Senate Bill 335, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 immigration and to make an appropriation.
- 4 Page 1, delete lines 1 through 15, begin a new paragraph and insert:
- 5 "SECTION 1. IC 4-13-2-18.1 IS ADDED TO THE INDIANA
- 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2008]: **Sec. 18.1. The budget agency shall, to**
- 8 **the extent permitted by federal law, withhold allotments of state**
- 9 **and federal funds for highways, roads, and streets from a political**
- 10 **subdivision that violates IC 5-2-18 until the political subdivision is**
- 11 **no longer in violation of IC 5-2-18.**
- 12 SECTION 2. IC 5-2-18 IS ADDED TO THE INDIANA CODE AS
- 13 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2008]:

Chapter 18. Citizenship and Immigration Status Information

Sec. 1. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 2. A political subdivision may not enact an ordinance, a resolution, a rule, or a policy that prohibits or limits another political subdivision or a governmental body (as defined in IC 5-22-2-13), including a law enforcement officer (as defined in IC 5-2-1-2), a state or local official, or a state or local government employee, from the following with regard to information concerning the citizenship or immigration status of an individual:

- (1) Communicating or cooperating with federal officials.**
- (2) Sending to or receiving information from the United States Department of Homeland Security.**
- (3) Maintaining information.**
- (4) Exchanging information with another federal, state, or local government entity.**

Sec. 3. A political subdivision may not knowingly assist a person who is not lawfully present in the United States in obtaining employment, housing, higher education, or other types of financial assistance."

Page 2, delete lines 1 through 7.

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 4. IC 12-7-2-9, AS AMENDED BY P.L.93-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. "Agency" means the following:

- (1) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-1.**
- (2) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-1.**
- (3) For purposes of IC 12-31-1, the meaning set forth in IC 12-31-1-1.**

SECTION 5. IC 12-7-2-76.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 76.6. **(a)** "Emergency medical condition", for purposes of IC 12-15-12, has the meaning set forth in IC 12-15-12-0.3.

(b) "Emergency medical condition", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-2.

SECTION 6. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 85.1. "Federal public benefit", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-3.**

SECTION 7. IC 12-7-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:**

(1) IC 12-8.

(2) IC 12-13-4.

(3) IC 12-31-1.

SECTION 8. IC 12-7-2-169.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 169.7. "SAVE program", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-4.**

SECTION 9. IC 12-7-2-185.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 185.5. "State or local public benefit", for purposes of IC 12-31-1, has the meaning set forth in IC 12-31-1-5.**

SECTION 10. SECTION 29. IC 12-31 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 31. RESTRICTIONS ON PUBLIC BENEFITS

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

Sec. 2. As used in this chapter, "emergency medical condition" has the meaning set forth in 42 U.S.C. 1396b(v)(3).

Sec. 3. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.

Sec. 4. As used in this chapter, "SAVE program" means the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

1 **Sec. 5.** As used in this chapter, "state or local public benefit" has
 2 the meaning set forth in 8 U.S.C. 1621.

3 **Sec. 6.** This chapter shall be enforced without regard to race,
 4 religion, gender, ethnicity, or national origin.

5 **Sec. 7.** Except as provided in section 9 of this chapter or in
 6 federal law, an agency or a political subdivision may not provide
 7 federal public benefits or state or local public benefits to an
 8 individual who is not:

9 (1) a United States citizen; or

10 (2) a qualified alien who is lawfully present in the United
 11 States under the federal Immigration and Nationality Act.

12 **Sec. 8.** Except as provided in section 9 of this chapter or in
 13 federal law, an agency or a political subdivision shall verify, in the
 14 manner provided in section 10 of this chapter, the lawful presence
 15 in the United States of each individual who:

16 (1) is at least eighteen (18) years of age; and

17 (2) applies for:

18 (A) federal public benefits; or

19 (B) state or local public benefits;

20 that are administered by the agency or political subdivision;
 21 before the agency or political subdivision may provide federal
 22 public benefits or state or local public benefits to the individual.

23 **Sec. 9.** An agency or a political subdivision is not subject to the
 24 prohibition in section 7 of this chapter or the requirements in
 25 section 8 of this chapter for any of the following:

26 (1) A purpose for which lawful presence in the United States
 27 is not required by law, ordinance, or regulation.

28 (2) Assistance for health care items and services that are
 29 necessary for the treatment of an emergency medical
 30 condition of the individual involved and are not related to an
 31 organ transplant procedure.

32 (3) Short term, noncash, in-kind emergency disaster relief.

33 (4) Public health assistance for:

34 (A) immunizations with respect to a disease for which an
 35 individual may be immunized; and

36 (B) testing and treatment of symptoms of communicable
 37 diseases regardless of whether symptoms are caused by a
 38 communicable disease.

(5) Programs, services, or assistance, including soup kitchens, crisis counseling and intervention, and short term shelter, as specified by the United States Attorney General in the United States Attorney General's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, that:

(A) deliver in-kind services at the community level, including services through public or private nonprofit agencies;

(B) do not condition the:

(i) provision of assistance;

(ii) amount of assistance provided; or

(iii) cost of assistance provided;

on a recipient's income or resources; and

(C) are necessary for the protection of life or safety.

(6) Prenatal care.

Sec. 10. An agency or a political subdivision shall verify the lawful presence in the United States of an individual described in section 8 of this chapter by requiring the individual to execute a verified affidavit stating that the individual is:

(1) at least eighteen (18) years of age; and

(2) either of the following:

(A) A United States citizen.

(B) A qualified alien who is lawfully present in the United States under the federal Immigration and Nationality Act.

Sec. 11. (a) If an individual executes an affidavit under section 10 of this chapter stating that the individual is a qualified alien lawfully present in the United States, an agency or a political subdivision shall verify the lawful presence of the individual to determine eligibility for federal public benefits or state or local public benefits through the SAVE program.

(b) An affidavit executed under section 10 of this chapter may be presumed to be proof of an individual's lawful presence in the United States under this chapter until eligibility is verified under this section.

Sec. 12. An agency or a political subdivision shall report any errors or significant delays by the SAVE program to the:

(1) United States Department of Homeland Security; and

1 (2) secretary of state.

2 **Sec. 13. An agency or a political subdivision may adopt a**
3 **variation of the requirements set forth in this chapter to:**

4 **(1) improve the efficiency of verifying an individual's lawful**
5 **presence in the United States under this chapter;**

6 **(2) reduce delay in verifying an individual's lawful presence**
7 **in the United States under this chapter; or**

8 **(3) provide for an adjudication in the case of unique**
9 **individual circumstances under which the procedures set**
10 **forth in this chapter would impose unusual hardship on a**
11 **legal resident of Indiana.**

12 **Sec. 14. A person who knowingly or intentionally makes a false,**
13 **fictitious, or fraudulent statement of representation in an affidavit**
14 **executed under section 10 of this chapter commits a Class D felony.**

15 **Sec. 15. An agency may adopt rules and a political subdivision**
16 **may adopt an ordinance or a resolution to carry out the**
17 **requirements of this chapter.**

18 SECTION 11. IC 21-14-10 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2008]:

21 **Chapter 10. Restriction on Education Benefits and Resident**
22 **Tuition**

23 **Sec. 1. An individual who is not lawfully present in the United**
24 **States is not eligible on the basis of lack of residence within Indiana**
25 **to pay the resident tuition rate (as determined by the state**
26 **educational institution).".**

27 Page 4, line 31, delete "works or is hired to work for at least one
28 thousand five"

29 Page 4, delete line 32.

30 Page 4, line 33, delete "(2)".

31 Page 4, line 34, delete "(3)" and insert "(2)".

32 Page 9, line 3, delete "13" and insert "14".

33 Page 10, line 4, delete "36-1-2-13." and insert "**IC 36-1-2-13.**
34 **However, the term does not include a hospital organized and**
35 **operated under IC 16-22-2, IC 16-22-8, or IC 16-23."**

36 Page 10, line 27, after "not" insert "**knowingly**".

37 Page 10, line 34, delete "the" and insert "**a**".

38 Page 10, line 35, delete "remedy the" and insert "**remedy a**".

1 Page 11, line 1, delete "(c)" and insert "(a)".

2 Page 11, line 39, delete "JULY 1, 2009" and insert "OCTOBER 1,
3 2009".

4 Page 11, line 39, delete "IC 22-5-1.5-22" and insert "IC
5 **22-5-1.5-23**".

6 Page 13, between lines 11 and 12, begin a new paragraph, and
7 insert:

8 "SECTION 16. IC 36-2-13-7.5 IS ADDED TO THE INDIANA
9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. (a) The sheriff shall make a**
11 **reasonable effort to determine the citizenship or immigration**
12 **status of a person who is:**

13 (1) **charged with a felony or with operating a vehicle while**
14 **intoxicated; and**

15 (2) **confined, for any period, in a county jail.**

16 (b) **If the person described under subsection (a) is a foreign**
17 **national, the sheriff shall make a reasonable effort to verify that:**

18 (1) **the person has been lawfully admitted to the United States;**
19 **and**

20 (2) **if the person has been lawfully admitted, the lawful status**
21 **of the person has not expired.**

22 (c) **If the sheriff is unable to verify the lawful status of a person**
23 **described under subsection (a) from documents in possession of the**
24 **person, the sheriff shall attempt to verify the lawful status of the**
25 **person not later than forty-eight (48) hours through a query to the**
26 **Law Enforcement Support Center of the United States Department**
27 **of Homeland Security or other office or agency designated for the**
28 **purpose of verifying the lawful status of person by the United**
29 **States Department of Homeland Security.**

30 (d) **If the sheriff is unable to verify the lawful status of a person**
31 **under this section, the sheriff shall notify the United States**
32 **Department of Homeland Security that the lawful status of a**
33 **person described under subsection (a) could not be verified."**

34 Page 13, after line 23, begin a new paragraph and insert:

35 "SECTION 20. [EFFECTIVE JULY 1, 2008] (a) **As used in this**
36 **SECTION, "law enforcement officer" has the meaning set forth in**
37 **IC 10-11-2-21.5, as added by this act.**

38 (b) **There is appropriated to the state police department one**

1 million dollars (\$1,000,000) from the state general fund for the
2 state police department's use in training law enforcement officers
3 under a memorandum of understanding entered into under
4 IC 10-11-2-21.5, as added by this act.

5 (c) Money appropriated by this SECTION does not revert to the
6 state general fund at the close of any fiscal year, but remains
7 available for the use of the state police department until the
8 provisions of IC 10-11-2-21.5, as added by this act, are fulfilled.

9 SECTION 21. [EFFECTIVE JULY 1, 2008] (a) The definitions in
10 IC 22-5-1.5, as added by this act, apply throughout this SECTION.

11 (b) There is appropriated to the attorney general five hundred
12 thousand dollars (\$500,000) from the state general fund for the
13 attorney general's use in investigating complaints filed with the
14 attorney general under IC 22-5-1.5-12, as added by this act, that an
15 employer knowingly employed an unauthorized alien in violation
16 of IC 22-5-1.5-11, as added by this act.

17 (c) Money appropriated by this SECTION does not revert to the
18 state general fund at the close of any fiscal year, but remains
19 available for use by the attorney general until the provisions of
20 IC 22-5-1.5, as added by this act, are fulfilled."

21 Renumber all SECTIONS consecutively.

(Reference is to SB 335 as reprinted January 29, 2008.)

and when so amended that said bill do pass.

Representative Turner